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April 23, 2024

VIA CM/ECF

Hon. Andrew M. Edison
c/o Ruben Castro, Case Manager
United States District Court
Southern District of Texas
Galveston Division
601 Rosenberg, Seventh Floor
Galveston, Texas 77550
Ruben_Castro@txs.uscourts.gov

Re: *Ledge Lounger, Inc. v. Global Lift Corp.*
Case No. 23-cv-04258

Dear Magistrate Judge Edison:

During the initial conference, you invited the parties to bring any matters to your attention for possible informal resolution before taking more formal steps. Defendant Global now writes to request a status conference to attempt to address a serious matter involving Plaintiff Ledge Lounger's inappropriate extrajudicial conduct.

Last week, Global became aware that an attorney from Banner Witcoff (the firm that represents Ledge here) sent notices to Amazon.com demanding that Global Pool's chaise lounge products be removed from the site, citing its purported trade dress. The notices do not mention that a challenge to the validity of the purported trade dress is pending in federal court – in a proceeding that Ledge itself initiated – and is also before the USPTO in the form of a trademark cancellation action.

As the Court is aware, this matter has been pending since November 2023. Ledge has never moved for preliminary injunctive relief—likely because it knows that it would be unable to show a likelihood of success on the merits (for the reasons set forth in Global's motion to dismiss) and because the alleged harm at issue is not irreparable. Nonetheless, a motion for preliminary injunctive relief was an option available to Ledge that it failed to pursue. But now, six months into the case, it is engaging in extrajudicial self-help, likely believing that Global's ability to respond is hobbled by the current procedural posture regarding jurisdiction.

Global has requested that Ledge withdraw the notices and allow the parties' dispute to play out in the federal courts, whatever the appropriate forum ultimately turns out to be. Ledge did not even provide Global's counsel with the courtesy of a response, confirming its bad-faith

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attempt to disregard the federal court processes in order to deny Global due process and to injure a market competitor during a critical time of the year for the pool industry.

Global thus requests a conference to see if the Court might informally resolve this issue in a fashion that respects this Court's processes, and preserves the status quo, while this Court addresses the pending motion regarding jurisdiction and transfer.

Very truly yours,



Thomas J. Davis

TJD

cc: Andy Tindel (co-counsel for Global)
Thomas Bejin (co-counsel for Global)
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